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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 JARVIS BROWN,) Case No.: 1:20-cv-00204-SAB (PC)
12)
13 Plaintiff,)
14 v.) ORDER DENYING PLAINTIFF'S MOTION
15 ANDRE MATEVOUSIAN, et.al.,) FOR APPOINTMENT OF COUNSEL, WITHOUT
16) PREJUDICE
17 Defendants.) (ECF No. 10)
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18 Plaintiff Jarvis Brown is appearing *pro se* in this civil rights action pursuant to Bivens v. Six
19 Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971), which
20 provides a remedy for violation of civil rights by federal actors.

21 Currently before the Court is Plaintiff's motion for appointment of counsel, filed on May 11,
22 2020.

23 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
24 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent
25 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
26 District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court
27 may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at
28 1525.

1 Without a reasonable method of securing and compensating counsel, the court will seek
2 volunteer counsel only in the most serious and exceptional cases. In determining whether
3 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
5 legal issues involved.” Id. (internal quotation marks and citations omitted).

6 In the present case, the Court does not find the required exceptional circumstances. Even if it
7 assumed that Plaintiff is not well versed in the law and that he has made serious allegations which, if
8 proved, would entitle him to relief, his case is not exceptional. The Court is faced with similar cases
9 almost daily. While the Court recognizes that Plaintiff is at a disadvantage due to his pro se status and
10 his incarceration, the test is not whether Plaintiff would benefit from the appointment of counsel. See
11 Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most actions require development of
12 further facts during litigation and a pro se litigant will seldom be in a position to investigate easily the
13 facts necessary to support the case.”) Circumstances common to most prisoners, such as lack of legal
14 education and limited law library access, do not establish exceptional circumstances that would
15 warrant a request for voluntary assistance of counsel. The test is whether exception circumstances
16 exist and here, they do not. In particular, for the stated in the Court’s April 17, 2020 screening order,
17 Plaintiff has failed to state a cognizable constitutional claim upon which relief may be granted. As a
18 result, the Court is precluded from making a finding that Plaintiff is likely to succeed on the merits.
19 Accordingly, Plaintiff’s motion for the appointment of counsel is denied, without prejudice.

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21 IT IS SO ORDERED.

22 Dated: May 12, 2020


UNITED STATES MAGISTRATE JUDGE